

REMARKS

In the Office Action dated November 5, 2004, claims 1-3, and 7-26 were rejected under 35 U.S.C. § 102(e) over U.S. Patent Application Publication No. 2002/0122416 (Xu); and claims 4-6 were rejected under § 103 over Xu in view of U.S. Patent Application Publication No. 2002/0037723 (Roach).

It is respectfully submitted that Xu does not qualify as prior art against the present invention. The filing date of Xu is February 15, 2002, which is after the filing date (June 14, 2001) of the present application. Xu is a continuation-in-part of three other applications: 09/788,865, filed on February 20, 2001; 09/819,492, filed on March 28, 2001; and 09/977,438, filed on October 15, 2001. The '438 application has a filing date of October 15, 2001, which is also after the filing date of the present application. The only two parent applications that have filing dates before the filing date of the present application are the '865 application, filed February 20, 2001, and the '492 application, filed on March 28, 2001. The '865 application is published as U.S. Patent Application Publication No. 2002/0114319 (Liu '319), and the '492 application is published as U.S. Patent Application Publication No. 2002/0141384 (Liu '384).

As stated by the M.P.E.P., in order to carry back the § 102(e) critical date of a U.S. patent reference to the filing date of a parent application, the U.S. patent reference must have a right of priority to the earlier date under 35 U.S.C. § 120, and *the parent application must support the invention claimed as required by § 112, ¶ 1*. M.P.E.P. § 2136.03 (8th ed., Rev. 2), at 2100-99. As stated by the M.P.E.P.:

For if a patent could not theoretically have issued the day the application was filed, it is not entitled to be used against another as 'secret prior art' under 35 U.S.C. 102(e).

Id. (emphasis in original).

Here, the applied reference, Xu, has independent claims 1 and 12 that recite the receiving of a ping datagram originated by a client (claim 1) and a means for receiving a ping datagram originated by the client that identifies the client (claim 12). Neither Liu '384 nor Liu '319 discloses the receiving of ping datagrams.

Also, independent claims 4 and 15 of Xu recite the receiving of a registration message from a client, where the registration message identifies a network address of the client, and extracting a source network address and a source port number from the registration message. These features of claims 4 and 15 are also not disclosed by Liu '384 or Liu '319.

The remaining claims of Xu are dependent claims. Because neither Liu '384 nor Liu '319 supports the claims of Xu under § 112, ¶ 1, Xu cannot be used as a prior art reference against the present application since the claimed subject matter of Xu is not supported by the parent applications, Liu '384 or Liu '319. The filing date of Xu is after the filing date of the present application. Withdrawal of all rejections over Xu, either alone or in combination with another reference, is respectfully requested.

In fact, since the Office Action relied upon the filing dates of Liu '384 and Liu '319, those should have been the references to apply against the claims of the present application. However, a review of both the references, Liu '384 and Liu '319, reveals that neither reference teaches "repeatedly sending keep-alive messages to maintain the path through the firewall and network address translator," as recited in claim 1. Similarly, with respect to independent claim 25, there is no teaching by either Liu '384 or Liu '319 of a controller to repeatedly send keep-alive messages to maintain the path through the firewall and network address translator.

Independent claim 8 is also allowable over Liu '384 and Liu '319, as neither reference teaches a controller to partially create the network address translation information during setup of a communications session between first and second terminals, to insert a predetermined indication into the network address translation information to indicate that the network address translation information has not been completed, and to wait for a media packet originated by the first terminal after the communications session has been set up to complete the network address translation information.

Independent claim 21 is similarly not disclosed by either Liu '384 or Liu '319.

Claim 22 has been amended from dependent form to independent form, with the scope of the claim remaining *unchanged*. Claim 22 recites that the network address translation information contains fields to map an address of the first terminal to a first alias address and to map an address of the second terminal to a second alias address. In Liu '384 and Liu '319, no

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such network address translation information containing fields to map both the address of the first terminal and the address of the second terminal is kept in any system, as recited in claim 22.

Dependent claims, including newly added dependent claims 27-29, are allowable for at least the same reasons as corresponding independent claims.

Allowance of all claims is respectfully requested. The Commissioner is authorized to charge any additional fees and/or credit any overpayment to Deposit Account No. 20-1504 (NRT.0098US).

Respectfully submitted,

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